

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Marianne Mickelson,
Appellant,

v.

Polk County Board of Review,
Appellee.

ORDER

Docket No. 13-77-0131
Parcel No. 320/04126-991-000

On January 8, 2014, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Marianne Mickelson was self-represented and submitted evidence in support of her position. Assistant Polk County Attorney David Hibbard represented the Board of Review at hearing. The Appeal Board now, having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Marianne Mickelson, owner of property located at 1041 54th Street, West Des Moines, Iowa, appeals from the Polk County Board of Review decision reassessing her property. According to the property record card, the subject property is a one-story, brick dwelling built in 1987 with 1742 square feet of total living area. It also has a 651 square-foot, attached garage, a deck, and an open porch. It is listed as average quality grade (4+10) and is listed in normal condition. The dwelling has a 5% functional obsolescence adjustment.

The real estate was classified as residential on the initial assessment of January 1, 2013, and valued at \$193,600, representing \$48,000 in land value and \$145,600 in dwelling value.

Mickelson protested to the Board of Review on the grounds that the property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2) and that there was a change in value since the last assessment under sections 441.37(1)(b) and 441.35(2). Her petition to the Board of Review sought an assessment of \$172,000. The Board of Review denied the petition.

Mickelson then filed her appeal with this Board and claimed the same grounds. She asserts the actual value of the property is \$172,000, allocated \$35,000 to land value and \$137,000 in dwelling value. In a re-assessment year like 2013, a protest based on change in value is akin to a market value claim under section 441.37(1)(a)(2). *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Therefore, we will only address the claim of over-assessment.

With her protest to the Board of Review, Mickelson listed four sales of properties she considered comparable to her property in support her claim. At hearing, Mickelson stated she incorrectly listed a parcel number and meant to include 916 52nd Court as a comparable. PAAB Administrative rule 701-71.21(29)(d) requires the parties to exchange evidence and exhibits at least 10 days prior to the hearing date. Because Mickelson did not provide the Board of Review with 916 52nd Court as a comparable at least 10 days prior to the hearing, that property was not admitted into evidence. The remaining sales are summarized below.

Address	Year Built	Grade	TSFLA	Garage SF	Date of Sale	Sale Price	AV	Sale Condition
Subject	1987	4+10	1742	651	N/A		\$193,600	N/A
3601 Stonebridge Dr	1978	4+10	1624	528	1/11/13	\$126,800	\$173,800	Foreclosure
4566 Coachlight Dr	2002	2-10	1253	400	3/25/13	\$176,000	\$180,500	Arm's Length
1219 24th St	1968	4+10	1649	None	1/30/13	\$160,000	\$160,200	Contract

The sales occurred in early 2013. Importantly, the sales on Stonebridge Drive and 24th Street have abnormal sale conditions that may distort the sale price. Without adjustments to remove the distorting effects of the abnormal sale conditions, we do not find them reflective of the properties' fair

market values. Further, no adjustments were made to the Coachlight Drive property to account for differences between it and the subject property. Therefore, we give this evidence no consideration.

The Board of Review appraiser Tierney with the Assessor's office identified five sales of properties considered comparable to Mickelson's property. All sale transactions were considered normal, are located in the same location as the subject (WD02), and two of the properties have basement finish. The comparable properties are similar or superior to the subject in construction quality grade.

Address	Year Built	Grade	TSFLA	Garage SF	Date of Sale	Sale Price	AV	SP \$SF
Subject	1987	4+10	1742	651	N/A		\$193,600	
5424 Boulder	1989	3+00	1789	462	3/30/2012	\$229,000	\$230,400	\$128.00
1113 59th	1987	4+10	1504	400	6/18/2012	\$166,500	\$162,800	\$110.70
608 53rd	1992	4+10	1554	484	7/30/2012	\$166,500	\$168,000	\$107.14
5308 Colt	1987	4+10	1440	400	10/7/2011	\$157,900	\$151,100	\$109.65
5310 Woodland	1987	3-05	1927	572	1/24/2012	\$234,000	\$211,700	\$121.43

We note the sale prices range from \$157,900 and \$234,000, or \$107.14 per-square-foot to \$128.00 per-square-foot. The subject property's assessment of \$193,600, or \$111.14 per-square-foot, is well within this range.

Paul Humble, Deputy Polk County Assessor, testified on behalf of the Board of Review. Humble reported Mickelson protested in 2003, 2005, 2009, 2011, and 2013. Three of the past protests resulted in a total reduction of \$21,320, which has been carried forward to present. The reductions were for quality, market over-ride, and functional obsolescence. In his opinion, Mickelson's Comp #1 is a good physical match to her property; however, he takes exception to the sale price since it was a foreclosure. He distinguishes Mickelson's Comp #2 because of its smaller size, it is newer, has a higher grade, and is in a different location. Humble points out that Comp #3 is a split-foyer and older, does not have a garage, and was a contract sale. He notes that the property resold in June 2013 for \$177,900, although this was well after the assessment date.

Two of the three sales offered by Mickelson were not normal arm's length transactions and none were adjusted for differences. The sales offered by the Board of Review were normal sales of comparable properties and were adjusted for differences. We find Mickelson's abnormal sales are not reflective of fair market values, while the evidence presented by the Board of Review supports her assessment.

Conclusions of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin Cnty. Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* Section 441.21(1)(b) further states the sale prices of properties in abnormal transactions not reflecting market value must not be taken into account, or must be adjusted to eliminate the effect of factors which distort market value, including . . . foreclosure or other forced sales [and] contract sales. If sales

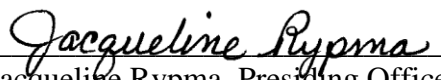
are not available to determine market value then “other factors,” such as income and/or cost, may be considered. § 441.21(2). The property’s assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

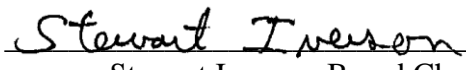
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property’s correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

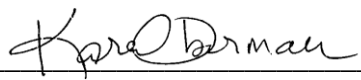
Two of the three sales Mickelson relies on are considered abnormal under Iowa law and cannot be taken into account without adjusting for the distorting effects of the sales transaction. Further, none of the sales were adjusted for differences and she did not provide an opinion of fair market value as of January 1, 2013. Viewing the evidence as a whole, we determine the preponderance of the evidence does not support Mickelson’s claim of over-assessment.

THE APPEAL BOARD ORDERS the subject property’s assessment of \$193,600, as determined by the Polk County Board of Review, as of January 1, 2013, is affirmed.

Dated this 12th day of February, 2014.


Jacqueline Rypma, Presiding Officer


Stewart Iverson, Board Chair


Karen Oberman, Board Member

Copies to:

Marianne Mickelson
1041 54th Street
West Des Moines IA 50266
APPELLANT

David Hibbard
Assistant Polk County Attorney
111 Court Avenue, Room 340
Des Moines, IA 50309-2218
ATTORNEY FOR APPELLEE